

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRYAN E. SAYLOR,

Plaintiff,

vs.

ALLISON, et al.,

Defendants.

1:21-cv-01282-GSA-PC

**ORDER FOR CLERK OF COURT TO
RANDOMLY ASSIGN A UNITED
STATES DISTRICT JUDGE TO THIS
CASE**

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
IN FORMA PAUPERIS STATUS BE
REVOKED
(ECF No. 2.)**

**OBJECTIONS, IF ANY, DUE IN
FOURTEEN (14) DAYS**

I. FINDINGS

Bryan E. Saylor ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. §1983. Plaintiff filed the Complaint commencing this action on August 24, 2021. (ECF No. 1.)

On August 24, 2021, Plaintiff filed a motion to proceed *in forma pauperis* along with a certified copy of his prison trust account statement pursuant to 28 U.S.C. § 1915, (ECF No. 2), and on August 24, 2021, the court granted Plaintiff's motion to proceed *in forma pauperis*, (ECF No. 5).

1 It appears, from a review of Plaintiff’s trust account statement, that Plaintiff can afford
2 the costs of this action. Evidence shows that on August 23, 2021, the average monthly balance
3 in Plaintiff’s account during the past six months was \$910.99, and the balance of Plaintiff’s
4 account was \$1,371.20. (Id. at 2.)

5 The Court notes that some of the funds in Plaintiff’s account may be from “stimulus
6 checks.” (Id. at 3-4.). However, Plaintiff has not cited to any law, and the Court is not aware of
7 any, preventing “stimulus checks” from being included when determining whether a plaintiff can
8 afford to pay the filing fee. Additionally, other courts in this district have included the funds
9 when making the determination. See, e.g., Hammler v. Zydus Pharmacy, 2021 WL 3048380, at
10 *1-2 (E.D. Cal. July 20, 2021) (considering the plaintiff’s “economic impact payments” when
11 determining that the plaintiff was “financially able to pay the filing fee”); Corral v. California
12 Highway Patrol, 2021 WL 2268877, at *1 (E.D. Cal. June 3, 2021) (including the plaintiff’s
13 “pandemic stimulus payments” in determining that the “plaintiff has made an inadequate
14 showing of indigency”).

15 Therefore, Plaintiff’s *in forma pauperis* status should be revoked, the court’s order
16 granting Plaintiff leave to proceed *in forma pauperis* should be vacated, and Plaintiff should be
17 required to pay the statutory filing fee of \$402.00 for this action in full within thirty days.

18 **II. ORDER, RECOMMENDATIONS, AND CONCLUSION**

19 **A. Order**

20 The Clerk of Court is **HEREBY ORDERED** to randomly assign a United States District
21 Judge to this case; and

22 **B. Recommendations and Conclusion**

23 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that:

- 24 1. Plaintiff’s *in forma pauperis* status be revoked;
- 25 2. The court’s order granting Plaintiff’s motion to proceed *in forma pauperis*, issued
26 on August 24, 2021, be VACATED; and
- 27 3. Plaintiff be required to pay the \$402.00 filing fee for this action in full within
28 thirty days.

